

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2176**

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**Introduced by Assembly Member Niello**

February 21, 2006

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An act to amend Section 17556 ~~of of, and to add Section 17556.1 to,~~ the Government Code, relating to state mandates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2176, as amended, Niello. State mandates.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions require the Commission on State Mandates to make that reimbursement according to specified procedures and direct the commission not to provide reimbursement if, after a hearing, it ~~makes specified findings finds, among other things, that the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.~~

This bill would ~~make a technical, nonsubstantive change to these provisions~~ provide that, with respect to a statute that states that it does not impose a mandate for which costs are reimbursable by the state because the local agency or school district to which the statute applies has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service, the Legislature shall specify upon whom the charge, fee, or assessment may be levied and provide a reasonable estimate as to whether the charge, fee, or assessment will generate funds sufficient to pay the costs the local agency or school district will incur to provide

*the mandated program or increased level of service. It also would authorize a local agency to, prior to providing the mandated program or increased level of service, begin to levy the charge, fee, or assessment in order to accumulate funds to implement the statute. It also would authorize the commission to find that an agency's or school district's costs of providing the mandated program or increased level of service that exceed the amount of funds generated by charges, fees, or assessments shall be reimbursable by the state.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 17556 of the Government Code is  
2     amended to read:

3     17556. The commission shall not find costs mandated by the  
4     state, as defined in Section 17514, in any claim submitted by a  
5     local agency or school district, if, after a hearing, the commission  
6     finds that:

7     (a) The claim is submitted by a local agency or school district  
8     that requested legislative authority for that local agency or school  
9     district to implement the program specified in the statute, and  
10    that statute imposes costs upon that local agency or school  
11    district requesting the legislative authority. A resolution from the  
12    governing body or a letter from a delegated representative of the  
13    governing body of a local agency or school district that requests  
14    authorization for that local agency or school district to implement  
15    a given program shall constitute a request within the meaning of  
16    this paragraph.

17    (b) The statute or executive order affirmed for the state a  
18    mandate that had been declared existing law or regulation by  
19    action of the courts.

20    (c) The statute or executive order imposes a requirement that  
21    is mandated by a federal law or regulation and results in costs  
22    mandated by the federal government, unless the statute or  
23    executive order mandates costs that exceed the mandate in that  
24    federal law or regulation. This subdivision applies regardless of  
25    whether the federal law or regulation was enacted or adopted  
26    prior to or after the date on which the state statute or executive  
27    order was enacted or issued.

1 (d) The local agency or school district has the authority to levy  
2 service charges, fees, or assessments sufficient to pay for the  
3 mandated program or increased level of service *as provided in*  
4 *Section 17556.1, except that costs of providing the mandated*  
5 *program or increased level of service that exceed the amount of*  
6 *funds generated by charges, fees, or assessments shall be*  
7 *reimbursable by the state.*

8 (e) The statute, executive order, or an appropriation in a  
9 Budget Act or other bill provides for offsetting savings to local  
10 agencies or school districts that result in no net costs to the local  
11 agencies or school districts, or includes additional revenue that  
12 was specifically intended to fund the costs of the state mandate in  
13 an amount sufficient to fund the cost of the state mandate.

14 (f) The statute or executive order imposes duties that are  
15 necessary to implement, reasonably within the scope of, or  
16 expressly included in a ballot measure approved by the voters in  
17 a statewide or local election. This subdivision applies regardless  
18 of whether the statute or executive order was enacted or adopted  
19 before or after the date on which the ballot measure was  
20 approved by the voters.

21 (g) The statute created a new crime or infraction, eliminated a  
22 crime or infraction, or changed the penalty for a crime or  
23 infraction, but only for that portion of the statute relating directly  
24 to the enforcement of the crime or infraction.

25 *SEC. 2. Section 17556.1 is added to the Government Code, to*  
26 *read:*

27 *17556.1. With respect to any statute that states that it does*  
28 *not impose a mandate for which costs are reimbursable by the*  
29 *state because the local agency or school district to which the*  
30 *statute applies has the authority to levy service charges, fees, or*  
31 *assessments sufficient to pay for the mandated program or*  
32 *increased level of service, as described in subdivision (d) of*  
33 *Section 17556, all of the following shall apply:*

34 (a) *The Legislature shall do both of the following:*

35 (1) *Specify upon whom the charge, fee, or assessment may be*  
36 *levied.*

37 (2) *Provide a reasonable estimate as to whether the charge,*  
38 *fee, or assessment will generate funds sufficient to pay the costs*  
39 *the local agency or school district will incur to provide the*  
40 *mandated program or increased level of service.*

1     (b) *A local agency may, prior to providing the mandated*  
2     *program or increased level of service, begin to levy the charge,*  
3     *fee, or assessment in order to accumulate funds to implement the*  
4     *statute.*

5     ~~SECTION 1. Section 17556 of the Government Code is~~  
6     ~~amended to read:~~

7     ~~17556. The commission shall not find costs mandated by the~~  
8     ~~state, as defined in Section 17514, in any claim submitted by a~~  
9     ~~local agency or school district, if, after a hearing, the commission~~  
10    ~~finds any of the following:~~

11    ~~(a) The claim is submitted by a local agency or school district~~  
12    ~~that requested legislative authority for that local agency or school~~  
13    ~~district to implement the program specified in the statute, and~~  
14    ~~that statute imposes costs upon that local agency or school~~  
15    ~~district requesting the legislative authority. A resolution from the~~  
16    ~~governing body or a letter from a delegated representative of the~~  
17    ~~governing body of a local agency or school district that requests~~  
18    ~~authorization for that local agency or school district to implement~~  
19    ~~a given program shall constitute a request within the meaning of~~  
20    ~~this paragraph.~~

21    ~~(b) The statute or executive order affirmed for the state a~~  
22    ~~mandate that had been declared existing law or regulation by~~  
23    ~~action of the courts.~~

24    ~~(c) The statute or executive order imposes a requirement that~~  
25    ~~is mandated by a federal law or regulation and results in costs~~  
26    ~~mandated by the federal government, unless the statute or~~  
27    ~~executive order mandates costs that exceed the mandate in that~~  
28    ~~federal law or regulation. This subdivision applies regardless of~~  
29    ~~whether the federal law or regulation was enacted or adopted~~  
30    ~~prior to or after the date on which the state statute or executive~~  
31    ~~order was enacted or issued.~~

32    ~~(d) The local agency or school district has the authority to levy~~  
33    ~~service charges, fees, or assessments sufficient to pay for the~~  
34    ~~mandated program or increased level of service.~~

35    ~~(e) The statute, executive order, or an appropriation in a~~  
36    ~~Budget Act or other bill provides for offsetting savings to local~~  
37    ~~agencies or school districts that result in no net costs to the local~~  
38    ~~agencies or school districts, or includes additional revenue that~~  
39    ~~was specifically intended to fund the costs of the state mandate in~~  
40    ~~an amount sufficient to fund the cost of the state mandate.~~

1     ~~(f) The statute or executive order imposes duties that are~~  
2     ~~necessary to implement, reasonably within the scope of, or~~  
3     ~~expressly included in a ballot measure approved by the voters in~~  
4     ~~a statewide or local election. This subdivision applies regardless~~  
5     ~~of whether the statute or executive order was enacted or adopted~~  
6     ~~before or after the date on which the ballot measure was~~  
7     ~~approved by the voters.~~

8     ~~(g) The statute created a new crime or infraction, eliminated a~~  
9     ~~crime or infraction, or changed the penalty for a crime or~~  
10    ~~infraction, but only for that portion of the statute relating directly~~  
11    ~~to the enforcement of the crime or infraction.~~